

**ORDINANCE NO. 2005-**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILLITS  
ENACTING CHAPTER 8.09, "CONSTRUCTION AND  
DEMOLITION RECYCLING" TO THE  
CITY OF WILLITS MUNICIPAL CODE**

The City of Willits does hereby ordain as follows:

**SECTION I. FINDINGS AND DECLARATIONS** The City Council of the City of Willits hereby finds and declares as follows:

WHEREAS, under the California Waste Management Act (California Public Resources Code Sections 40000 et seq.), Willits is required to prepare, adopt and implement source reduction and recycling elements to reach reduction goals; and

WHEREAS, Willits is required to make substantial reductions in the volume of waste materials going to landfill, under the threat of penalties of \$10,000 per day; that debris from demolition and construction of buildings represents a significant portion of the solid waste presently coming from Willits; and

WHEREAS, much of said debris is particularly suitable for recycling; and that Willits' commitment to the reduction of waste and to compliance with state law requires the establishment of programs for recycling and salvaging construction and demolition materials.

NOW, THEREFORE, it is the intent of the City Council of the City of Willits, in enacting this ordinance, to encourage recycling and responsible reductions in the volume of waste materials going to landfills.

**SECTION II.** A new Chapter 8.09 entitled "Construction and Demolition Recycling" is hereby added to the Willits Municipal Code and shall provide as follows:

**CHAPTER 8.09**

**CONSTRUCTION AND DEMOLITION RECYCLING**

**Sections**

- 8.09.010 Definitions
- 8.09.020 Notice and Opportunity for Salvage
- 8.09.030 Diversion Requirements
- 8.09.040 City's Authorized Agent
- 8.09.050 Information Required Before Issuance of Permit
- 8.09.060 Deposit Required
- 8.09.070 Exemption from Waste Management Plan and Deposit
- 8.09.080 On Site Practices
- 8.09.090 Reporting
- 8.09.100 Exemption from Diversion Requirement
- 8.09.110 Violation of a Public Nuisance

- 8.09.120 Penalties
- 8.09.130 Severability

**8.09.010 DEFINITIONS.** For purposes of this chapter the following definitions apply:

(A) "Contractor" means any type under the laws of the State of California, or who performs (whether as contractor, subcontractor or owner-builder) any construction, demolition, remodeling, or landscaping service relating to buildings or accessory structures in Willits.

(B) "Construction" means all building, landscaping, remodeling, addition, removal or destruction involving the use or disposal of Designated Recyclable and Reusable Materials as defined in paragraph D below.

(C) "Demolition and Construction Debris" means:

- (1) Discarded materials generally considered to be not water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure and/or landscaping, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project.
- (2) Clean cardboard, paper, plastic, wood, and metal scraps from any construction and/or landscape project.
- (3) Non-construction and demolition debris wood scraps.
- (4) Insignificant amounts of other non-hazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the industry.
- (5) Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.

(D) "Designated Recyclable and Reusable Materials" means:

- (1) Masonry building materials including all products generally used in construction including, but not limited to asphalt, concrete, rock, stone and brick.
- (2) Wood materials including any and all dimensional lumber, fencing or construction wood that is not creosoted, preservative pressure treated, contaminated or painted.
- (3) Vegetative materials including trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use.
- (4) Metals including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames and fences.

- (5) Roofing Materials including wood shingles as well as asphalt, stone and slate based roofing material.
- (6) Salvageable Materials includes all salvageable materials and structures including, but not limited to wallboard, doors, windows, fixtures, toilets, sinks, bath tubs and appliances.

(E) "Project" means a demolition or construction activity for which a city permit is required, and, in the case of associated activities such as a housing development consisting of numerous single-family homes, an apartment complex consisting of several detached buildings, or a commercial development consisting of several detached building, the "overall project" shall be defined as the entire development for purposes of determining exemption or non-exemption from the waste reduction requirements of this ordinance.

**8.09.020 NOTICE AND OPPORTUNITY FOR SALVAGE.** The Community Development Department shall maintain an active list of contractors which have stated they are available for deconstruction of structures and recovery of salvageable materials. Notice shall be given by the Department to each such contractor through procedures established by the Department of every demolition permit application that is subject to the provisions of this ordinance. Every non-exempt demolition project shall be made available by the applicant for proposals and bids for deconstruction and salvage, including allowing inspection of the premises by qualified deconstruction contractors. Consideration of such proposals and bids shall not obligate the permit applicant to accept any proposal or bid. It shall be the responsibility of the owner, the general contractor and all subcontractors to recover the maximum feasible amount of salvageable, designated recyclable and reusable materials prior to demolition. Recovered and salvaged designated recyclable and reusable materials from the deconstruction phase shall qualify to be counted in meeting the diversion requirements of this chapter. Recovered or salvaged materials may be given or sold on the premises, or may be removed to reuse warehouse facilities for storage or sale. Title to recyclable materials forwarded to the operator of recycling facilities or of a landfill will transfer to the service provider upon departure of materials from the site.

**8.09.030 DIVERSION REQUIREMENTS.** At least the following specified percentages of the waste tonnage of demolition and construction debris generated from every demolition, remodeling and construction project shall be diverted from going to land fill by using recycling, reuse and diversion programs:

- (A) Demolition: Fifty percent (50%) of waste tonnage including concrete and asphalt, and fifteen percent (15%) of waste tonnage excluding concrete and asphalt.
- (B) Reroofing of structures as a separate project: Fifty percent (50%) of wood, slate or stone waste, and fifty percent (50%) of asphalt shingles when the Community Development Department certifies that a reasonable recycling option for this material is available.
- (C) Construction and Remodeling: Fifty percent (50%) of waste tonnage.

Separate calculations and reports will be required for the demolition and for the construction portion of projects involving both demolition and construction.

**8.09.040 CITY'S AUTHORIZED AGENT.** The Director of Community Development may designate the City's franchised solid waste hauler or another qualified entity as the City's authorized agent to review initial Waste Management Plans of permit applicants; to consult with permit applicants on waste diversion options; and to review completed Waste Management Plans and accompanying documentation to certify to the Community Development Department whether the requirements of this ordinance have been fulfilled by the applicant. Any finding of the City's authorized agent may be appealed to the Community Development Department. In fulfilling this role, the City's authorized agent will not discriminate in any way against diversion services or alternatives that are available from other entities besides itself.

**8.09.050 INFORMATION REQUIRED BEFORE ISSUANCE OF PERMIT.** Every applicant shall submit a properly completed initial Waste Management Plan, on a form as prescribed by the City, to the Community Development Department, as a portion of the building or demolition permit process. The Plan will show how the applicant will satisfy the diversion requirement by diverting specific materials from disposal. The applicant will be encouraged to consult with the City's authorized agent in preparation of the Plan. Approval of the Plan as complete and adequate shall be a condition precedent to issuance of any building or demolition permit. The applicant shall submit an amended Waste Management Plan for review and approval prior to any deviation from the procedures set forth in the initial Plan

**8.09.060 DEPOSIT REQUIRED.** As a condition precedent to issuance of any permit for a building or a demolition permit that involves the production of solid waste destined to be delivered to a landfill, the applicant shall post a deposit in a form acceptable to the Community Development Department in the amount of 35 cents per square foot of buildings to be built or demolished. The deposit shall be returned, without interest, in total or in proportion, upon proof to the satisfaction of the building official, that no less than the required percentages or proven proportion of those percentages of the tons of debris generated by the demolition and /or construction project have been diverted from landfills and have been recycled or reused. If a lesser percentage of tons or cubic yards than required is diverted, a proportionate share of the deposit will be returned. The deposit shall be forfeited entirely or to the extent that there is a failure to comply with the requirements of this chapter.

**8.09.070 EXEMPTION FROM WASTE MANAGEMENT PLAN AND DEPOSIT.** The following projects are exempt from the requirements for a Waste Management Plan and deposit:

1. Demolition of buildings smaller than 500 square feet.
2. New construction projects for buildings smaller than 5000 square feet, except that smaller buildings which are part of an overall project which totals 5000 square feet or more shall not be exempt.
3. Work for which only a plumbing, electrical, or mechanical permit is required.
4. Seismic tie-down projects.
5. Installation of pre-fabricated patio enclosures and covers where no foundation or other structural building modifications are required.
  - a. Installation of pre-fabricated accessories such as signs or antennas where no structural building modifications are required.
  - b. All new roofs without significant removal of existing roofing materials (tear-off).
6. Projects that will generate no demolition and construction debris.

**8.09.080 ON SITE PRACTICES.** During the term of the demolition or construction project, the contractor shall recycle or divert the required percentages of materials, and keep records thereof in tonnage or in other measurements approved by the Community Development Department that can be converted to tonnage. The City or its authorized agent will evaluate and monitor each project to gauge the percentage of materials recycled, salvaged and disposed from the project. The required diversion of a minimum of the required percentages of the demolition and construction debris will be measured separately with respect to the demolition segment and the construction segment of a project where both demolition and construction are involved.

**8.09.090 REPORTING.** Within sixty (60) days following the completion of any demolition project or construction project, the contractor shall, as a condition precedent to final inspection and to issuance of any certificate of occupancy, submit documentation to the Community Development Department or the City's authorized agent which proves compliance with the requirements of this ordinance. The documentation shall consist a completed Waste Management Plan showing actual data of tonnage of materials recycled and diverted, supported by receipts and weight tags or other records of measurement from recycling companies, deconstruction contractors and/or landfill and disposal companies. Receipts and weight tags will be used to verify whether materials generated from the site have been or are to be recycled, reused, salvaged or otherwise disposed of. In the alternative, the permittee may submit a letter stating that no waste or recyclable materials were generated from project, in which case this statement shall be subject to verification by the Community Development Department or the City's authorized agent. If a project involves both demolition and construction, the report and documentation for the demolition project must be submitted and approved by the Community Development Department or the City's authorized agent before issuance of a building permit for the construction project. Any deposit shall be forfeited if the permittee does not meet the timely reporting requirements of this section.

**8.09.100 EXEMPTION FROM DIVERSION REQUIREMENT.**

(A) Application: If an Applicant believes it is infeasible to comply with the diversion requirements of this ordinance due to the circumstances delineated in this Section, the Applicant may apply for an exemption at the time that he or she submits the initial Waste Management Plan. Exemptions may be granted based on the following considerations:

- (1) Lack of storage space onsite.
- (2) Contamination by hazardous substances.
- (3) Low recyclability of specific materials.

The Applicant shall indicate on the Waste Management Plan the maximum rate of diversion the applicant believes is feasible for each material and the specific circumstances that the applicant believes make it infeasible to comply with the Diversion Requirement.

(B) Determination by Compliance Official: The Community Development Department or the City's authorized agent shall review the information supplied by the Applicant and may meet with the Applicant to discuss possible ways of meeting the Diversion Requirement. The Community Development Department shall determine whether the exemption will be granted, and may substitute an alternative lesser diversion requirement upon determination that it may reasonably be achieved by the Applicant using locally available diversion opportunities.

**8.09.110 VIOLATION OF A PUBLIC NUISANCE.** Each violation of the provisions of this ordinance shall constitute a public nuisance and be subject to abatement as such. The costs of abatement of any such nuisance shall be a lien upon the property involved.

**8.09.120 PENALTIES.** Each violation of the provisions of this ordinance shall constitute a misdemeanor, and shall be punishable by imprisonment in the county jail for not to exceed six (6) months, or by fine not exceeding one thousand dollars (\$1,000.00), or by both such fine and imprisonment. Each day that a violation continues shall be deemed a new and separate offense.

**8.09.130 SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or circumstances is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof nor other applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

**EFFECTIVE DATE, PUBLICATION.** The City Clerk shall publish this Ordinance as required by law. This Ordinance shall take effect thirty (30) days after passage. The foregoing Ordinance was introduced and read by title only at a regular meeting of the Willits City Council held on the \_\_\_\_ day of April, 2005, and adopted on the \_\_\_\_ day of \_\_\_\_\_, 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Tami Jorgensen, Mayor

ATTESTED:

\_\_\_\_\_  
Frances Schatz, Clerk